

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

KENNETH and LINDA WAITHE,)
)
Plaintiffs,)
)
v.) Case No. CV409-021
)
ARROWHEAD CLINIC, INC., *et al.*,)
)
Defendants.)

ORDER

Alleging that plaintiffs' counsel acted unprofessionally toward a deposition witness¹ and also short-timed the taking of two additional depositions, defendants Arrowhead Clinic, Inc., Arrowhead Management, Inc., Harry W. Brown, Inc., H. Brown Management Company, LLC, and Harry W. Brown, Jr. (hereafter for convenience, "Arrowhead") moved the Court for a protective order. Doc. 92. They wanted all remaining depositions videotaped at plaintiffs' counsel's expense, and they wanted to reschedule the two "short-timed" depositions. *Id.*

Meanwhile, defendants Robert D. Stein, Robert D. Stein d/b/a The

¹ That of "Ms. Brenda Fortner, a current employee of Defendant Arrowhead Management, Inc." Doc. 92 at 2.

Law Offices of Robert D. Stein and Associates, and Legal Counsel, Inc., also moved for a protective order, insisting that plaintiffs short-timed them on two depositions and thus a more reasonable time frame must be specified. Doc. 91.

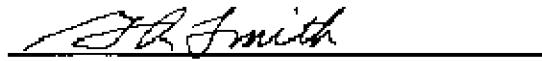
Given its need for a transcript, the Court stayed all depositions until it could resolve the matter. Doc. 93, *reported at* 2011 WL 2039604. All parties have since had their say briefing-wise, docs. 94-100, but they have also since moved for summary judgment. Docs. 101, 103 & 104. Within those briefs the Court spies no invocation of Fed. R. Civ. P. 56(f) which expressly authorizes summary-judgment opponents to request deferral pending needed discovery. Nor does the Court see any assertion that the aforementioned depositions are needed to resolve the case on summary judgment (as there is no mention of the need for further testimony from Fortner, nor deposition testimony of the above-referenced future deponents). And the summary-judgment motions, if reached, likely will dispose of this entire case, thus mootng the protective-order motions.² The same reasoning applies to plaintiffs' motion for an extension of time

² Meanwhile, the district judge just dismissed Counts III & IV of plaintiffs' complaint. Doc. 122 at 10.

to identify an expert witness, doc. 74, and Arrowhead's *in limine* motion to preclude chiropractic expert testimony. Doc. 86.

Accordingly, the Court **DENIES** the expert-based and protective-order motions without prejudice to the right of any party to renew them following resolution of the pending summary judgment motions. Docs. 74, 86, 91 & 92.

SO ORDERED this 12th day of September, 2011.



UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA